

The MPEP states that nucleotide sequences that encode different proteins are generally seen by the USPTO as structurally distinct chemical compounds. As such, each such nucleotide sequence is presumed to represent an independent and distinct invention that is subject to a restriction.

Nevertheless, to aid the biotechnology industry without creating an undue burden on Examiners, the USPTO permits a reasonable number of such nucleotide sequences to be claimed in a single application. *See Examination of Patent Applications Containing Nucleotide Sequences*, 1192 O.G. 68 (November 19, 1996), the 'Guidelines,' and MPEP 803.04. The MPEP states that ten sequences constitute a reasonable number for examination purposes and that up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction.

As such, Applicants elect to prosecute the claims of Group X with traverse. As a coelenterazine species, Applicants elect native coelenterazine (CTZ).

However, relying on the Guidelines, Applicants respectfully request that the Examiner allow Applicants to pursue claims relating to the following 9 aequorin mutants for the prosecution in the current application:

| Mutant Name                   | Mutant Name                    |
|-------------------------------|--------------------------------|
| Mutant S Ala69Cys (Group II)  | Mutant S Tyr82Trp (Group X)    |
| Mutant S Gly70Cys (Group III) | Mutant S Phe66Cys (Group VII)  |
| Mutant S Ala74Cys (Group IV)  | Mutant S Phe65Cys (Group VIII) |
| Mutant S Glu76Cys (Group V)   | Mutant S His16Tyr (Group II)   |
| Mutant S Tyr82Phe (Group X)   |                                |

Applicants respectfully assert that such a search of these 9 aequorin would not place an undue burden on the Examiner given the relative ease of generating line ups of protein sequences found in the prior art. Applicants also respectfully assert that any burden encountered by the Examiner is far out weighed by the burden placed on the Applicant having to file an additional 38 patent applications to obtain protection for the invention disclosed in this Application.

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## CONCLUSION

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

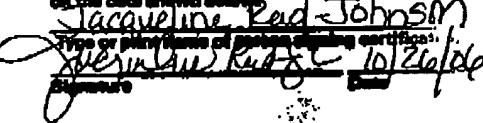
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